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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,744	06/27/2003	Roger S. Salmonson	17595-00005	7702
7590 11/16/2004			EXAMINER	
MIRICK O'CONNELL MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP 1700 WEST PARK DRIVE WESTBOROUGH, MA 01581-3941			FLOOD, MICHELE C	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,744	SALMONSON, ROGER S.	
	Examiner	Art Unit	
	Michele Flood	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2 and 5-6, drawn to a topical analgesic comprising an effective amount of each of the following components: cornmint oil; orange oil; pennyroyal oil; rosemary Spanish oil; coriander oil; menthyl acetate; alpha pinene; beta pinene; camphor white oil; calendula oil; mineral oil and almond oil, classified in class 424, subclass 725 or class 514, subclass 817 or class 514, subclass 899, for example.
- II. Claims 3-4 and 7-8, drawn to a topical analgesic comprising an effective amount of each of the following components: cornmint oil; orange oil; pennyroyal oil; rosemary Spanish oil; coriander oil; menthyl acetate; alpha pinene; beta pinene; camphor white oil; calendula oil; and mineral oil, classified in class in class 424, subclass 725 or class 514, subclass 817 or class 514, subclass 899, for example.
- III. Claims 9-10, drawn to a composition adapted to reduce pain associated with menstruation comprising an effective amount of each of the following components: to a topical analgesic comprising an effective amount of each of the following components: cornmint oil; orange oil; pennyroyal oil; rosemary Spanish oil; coriander oil; menthyl acetate; alpha pinene; beta pinene; camphor white oil; and calendula oil, classified in class in class

424, subclass 725 or class 514, subclass 817 or class 514, subclass 899,
for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the three different groups are directed to three different compositions comprising different ingredients. Different compositions comprising different ingredients do not necessarily have the same functional effect.

Moreover, These compositions are capable of separate manufacture, use or sale, as claimed, and are patentable (novel and unobvious) over each other (though they may be unpatentable because of the prior art) subjects.

Because these inventions are distinct for the reasons given above and the search required for one Group is not required for another Group, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michele C. Flood
MICHELE FLOOD
PATENT EXAMINER

MCF

November 15, 2004